THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (DR. SHAKEEL AHMAD): I had moved this Bill in the Lok Sabha also.

MR. DEPUTY CHAIRMAN: I have called you. The sentiments of the House are also very important...*(Interruptions)*...This is an important Bill. They are raising objection that the Home Minister should have been here ...*(Interruptions)*...

SHRI S.S. AHLUWALIA: Sir, you take up the Special Mentions. We will wait ...*(Interruptions)*... Let him come. Otherwise, you adjourn the House till he comes...*(Interruptions)*...What is this?

SHRI V. NARAYANASAMY: Sir, how can he decide that?...*(Interruptions)*...

DR. V. MAITREYAN: Already the Railways is following that. Now, the Home Ministry is also following this.

SHRI DIGVIJAY SINGH: Sir, we want protection from you...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: What protection do you need?...*(Interruptions)*...

SHRI S.S. AHLUWALIA: Sir, the point is very simple.

MR. DEPUTY CHAIRMAN: Okay, okay. The Home Minister has come. Let us take it up...*(Interruptions)*...I have given you protection. I have called him. He has come...*(Interruptions)*...Mr. Narayanasamy, now, the matter is over. Let us resume with the Business.

*Now, you move the Code of Criminal Procedure (Amendment) Bill, 2008.

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GOVERNMENT BILLS

The Code of Criminal Procedure (Amendment) Bill, 2008

THE MINISTER OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Sir, I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1973, be taken into consideration."

Sir, with your permission, let the discussion start and I will reply to the debate.

The question was proposed.

MR. DEPUTY CHAIRMAN: Mr. Gyan Prakash Pilania. I just want to remind you that 26 minutes has been allotted to your party and there are two speakers.

SHRI S.S. AHLUWALIA (Jharkhand): Sir, this is an important Bill. You should be considerate.

MR. DEPUTY CHAIRMAN: Mr. Ahluwalia, I am just reminding him. There are 26 minutes allotted and there are two speakers. Now, I leave it to both of you to decide yourself.

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*Deleted as ordered by the Chair.

DR. GYAN PRAKASH PILANIA (Rajasthan): Sir, thanks for your kind reminder. In fact, I did not need it. I will stop as soon as you desire. It is a very, very important piece of legislation as has been sounded by the House. It is nice that the hon. Home Minister, Shri P. Chidambaram, has consented to initiate the debate. It is a very important legislation which needs a great deliberation. A discussion in depth is required. Its edifice has been laid on the foundations of three Reports of the Law Commission. The first one is 154th Report of 1996 vintage, another is 177th Report of 2001 and the third one is 178th Report of the same year.

As far as 154th Report is concerned, it laid the foundation for this Bill. And, this, particularly, deals with ambition to ensure a fair and speedy justice, and to tone up the criminal justice system in the country. As we all know, dispensation of justice is one of the fundamental duties of any State, and getting justice is one of the fundamental rights of the citizens of a State. Every man, poorest of the poorest, lowliest of the lowliest, must get इंसाफ़ at the door of the Government. And, this Bill is a step forward to ensure that. We will examine, in minutes to come, how far it rises up to the occasion.

As far as the 154th Report is concerned, its recommendations were found very appropriate, particularly those relating to provisions concerning arrest, custody, remand, procedure for summons and warrant cases, compounding of offences, victimology, special protection in respect of women, and enquiry and trial of persons of unsound mind. So, this is the bulk of recommendations contained in this Bill.

As far as the 177th Report is concerned, it related exclusively to arrest with a view to ensure a balance between the liberty of the citizens and society's interest in the maintenance of peace as well as law and order. With your permission, Mr. Deputy Chairman, Sir, I would like to quote from a letter written by the Chairman of the 177th Law Commission, Justice B.P. Jeevan Reddy. This letter was written to the then Law Minister, Shri Arun Jaitley. I quote, 'The theme of this Commission's Report is to maintain a balance between the liberty of the citizens, the most precious of all Fundamental Rights, and the societal interest in maintenance of peace and law and order.' This is a theme that must permeate — I think, the hon. Minister will appreciate — all the activities of the Government, particularly the Executive wing of the Government, that there must always be a balance between the law and order and the Fundamental Rights of the citizens, which must be protected at all costs. This was a decision given by the Supreme Court also.

As far as the 178th Report of the Law Commission is concerned, it primarily related to treatment given to witnesses, which were being induced by threats by accused persons to turn hostile. So, this Report aims at ensuring that witnesses are not cowed down by money power or muscle power. Overall, this Bill focuses upon nine basic issues. Number one, law relating to arrest that concerns every citizen. Number two, summons and warrant cases, where it has been mandatory that there should be summary trial in all summons cases. This is a debatable issue about which Departmental Standing Committee had dwelt upon in detail. Number three, how to check witnesses turning hostile. This was the third important issue in the criminal justice system

of the country. Number four, special provisions for protection of women. Womanhood had always been held in high regard in our country. We have always been believing in *यत्र नार्यस्त पूजयन्ते, रमन्ते तत्र देवता* Hence, honour, integrity and chastity of women must be protected at all costs. That was the main theme that was pointed out by the Law Commission and that has been handled in this Bill.

Victimology has been ignored so far. The victim of a crime had, in fact, no place in the Criminal Justice System. He didn't have a special standing of his own. He didn't get compensation. He was a person who suffered and suffered. Victimology is a new sociological interpretation of system of justice, which has been dealt with in this Bill.

The sixth point pertains to inquiry and trial of persons of unsound mind, who cannot look after themselves, and who are persons who have been betrayed by God and society. A special provision to take care of those who are of unsound mind has been made, which is laudable.

There should be avoidance of adjournments. Everyone knows, adjournments are the bane of our judicial system. There is endless litigation. There are adjournments after adjournments and appeals after appeals. It has been said that when grandfather institutes a case, grandson, usually, gets the opportunity to hear the judgement. We have to avoid adjournments.

[THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair]

The eighth point is regarding compounding of offences. As far as possible, offences should be compounded. As far as possible, litigation should be avoided. As far as possible, litigation should not become endless and, as far as possible, there should be a conciliatory approach overall to decide the cases.

And, last but not the least; the ninth issue is video-conferencing. This is a new technique. We will discuss during the course of this debate what is its balance in favour of the accused, as well as, in favour of the State. So, these nine issues have been handled by this Bill, which is epoch-making. We think, if properly executed and taken in the right spirit, it may change the total facet of the Criminal Justice System.

I need not mention that the Criminal Justice System consists of five different angles. One is the Judiciary, second is the Executive; the prosecutor, third is the victim, fourth is the person who perpetrated the crime, and, fifth and final is the jail administration. All these facets come within the jurisdiction of the Criminal Justice System.

Now, with your permission, point by point, we will deal with the Bill. I hope, introduction of this new Code of Criminal Procedure (Amendment) Bill will ensure that justice is not delayed because justice delayed is justice denied. We also hope that it will ensure that justice is not tampered with, that justice is not pro-rich, it is not pro-*status-quo* and that justice, in ordinary words, will become *sasta, sulabh* and *twarit,* which is the need of the hour. We will come to the points one by one.

As far as changes regarding ensuring arbitrary arrest is concerned, this Bill has gone in detail to ensure that police does not abuse its powers. Arresting a person in the interest of his

safety was one of the suggestions which has been found highly objectionable by the Department-related Parliamentary Standing Committee on Home Affairs, which held detailed deliberations in its eleven sittings lasting for hours and hours. This Committee submitted its report which was presided over by one of our distinguished Members of Parliament, Shrimati Sushma Swaraj. I trust and hope that the hon. Home Minister has incorporated in this Bill various kinds of suggestions made by the Standing Committee of the Ministry.

One of the issues is, victimology. The proposed clauses 3, 37 and 38 provide for a compensation scheme to be prepared for compensating the victim or his dependants. Action has to be taken on this by all the States. I wish and pray that certain guidelines are laid down by the Ministry of Home Affairs at the Central level so that different States pursue same kind of compensation norms as far as victims are concerned. Victim Compensation Scheme will be absolutely a new facet in our judicial system and it should be very rightly prepared.

As far as special provision for women is concerned, it has been ensured that in cases of rape, medical examination of woman is done only under expert supervision of a female registered Medical Practitioner as far as possible. Such Medical Practitioner should be from the State Service or Central Service. That will ensure better *bona fides* and as far as victim is concerned, if she is less than 18 years old, her parents or social worker must remain present during the investigation.

It has been said that investigation of child rape cases may be completed within three months' of time. I don't see any difference between the rape case of a child and the rape case of an old woman. To the lust of offenders, none is exempted. Eighty year-aged woman has also suffered this pang of rape which kills a woman. While she remains alive physically, it destroys her totally. So, as far as rape is concerned, there couldn't be a worse offence against a woman, against her whole personality, against her total psyche. Hence no distinction should be made what is her age. Women of any age who have suffered this stigma must be given justice at the earliest through fast courts or any special courts preferably presided by a female Judge who can understand her feeling better than a male Judge. It has been laid out here. Members and witnesses agreed with this view, and, I think, that has been accepted by the Home Ministry.

About avoidance of adjournment, there was no difference of opinion and that has been incorporated in this Bill. Regarding compounding of offences, offence under Section 498 IPC should be made compoundable by the woman concerned in addition to husband of a woman. As far as Section 498A IPC is concerned, it was a new Section introduced sometime back. It should be included in Table 1 of Section 320 CrPC and made bailable as well as compoundable. I think, this is a felt demand because this Section 498A has been open to abuse by people. Certain persons have suffered throughout the country because of draconian law that is incorporated in this. Hence suggestion has been made very rightly so and very timely so that it should be made bailable as well as compoundable. Compounding of offences under Section 451, Section 497, which is adultery, and Section 498, enticing or taking away or detaining with

criminal intent a married woman, is not desirable. This is the view expressed by the Members and witnesses of the Standing Committee, and I think the Home Ministry has graciously accepted this. This is a sane view. As far as persons of unsound mind are concerned, I think there is nothing much to be discussed except for that they should be provided with help from psychologists or clinical scientists for care and treatment, and the Medical Board should examine them so that nobody who is really not guilty but who is of an unsound mind is made to suffer.

Sir, Video Conferencing is a debatable point. Video Conferencing has been introduced. It was initially introduced in Andhra Pradesh. Video Conferencing makes things easier for the Police and makes it easier for the judiciary also, but it jeopardises the rights of the accused. I would like to specifically bring this point to the notice of the hon. Home Minister. I hope he is listening to me with one of his ears while listening to learned Mr. Shourie with his other! I hope I am being heard, Sir. I would like to submit again that lack of police escorts to take undertrials to courts every fortnight, as provided under the law, has been replaced by video linkages between jails and courts. This grossly curtails requirements of law *vis-a-vis* rights of the undertrial since it robs him of counsel's presence and help. It is a very important point that I am trying to emphasise. The House may kindly take note of it. Video Conferencing curtails requirements of law *vis-a-vis* rights of undertrial since it robs him of counsel's presence and help. Law casts a duty upon the State to physically produce the accused before the Magistrate. This is the first and fundamental step required for the accused to negotiate his freedom with judiciary. This negotiation is already fraught with a number of problems ranging from bias of judiciary to that of the criminal justice system, which considers any poor and under-privileged person as a rogue and as an offender. The criminal justice system adopts a new technology in the form of video linkage between courts and prisons. What will its effect be? It will expedite the system. It will help the police; they would have to undertake less trouble, but it will harm the undertrial persons very much because the accused in the prison is electronically produced before the Magistrate in the court. The linkage widens the already existing divide between the citizen and the criminal justice system. Hence, abundant caution is required. It has been sounded by the Departmental Committee emphasized that prior to undertaking video conferencing, also see to it that rights of undertrial prisoners are duly protected. What can be done regarding witnesses turning hostile, which was highlighted in certain cases such as the Jessica Lal and other cases, where money and muscle power played its part? How can we insulate witnesses from temptation or from threat and how can we ensure that witnesses come forth readily, freely, frankly and depose the truth before the court? In this connection, signed statements of witnesses have been suggested which has been also agreed to by the Departmental Committee. Though they would not have evidential value because any statement made to a police officer in any way, verbal or written, is not admissible in law. But it will help to ensure that witness sticks to the written statement because he has signed it. Secondly, if he does not, then there will be a charge of perjury against

him. So, that provision is a same provision and, therefore, punishment for perjury is also intended to be enhanced. I think this provision deserves sanction of the House. Regarding summons and warrant cases, it is a very special kind of jargon and only those who are apt in law are able to appreciate it. At present, there are three kinds of trials — warrant trial, summons trial and summary trial. But the amendment in this Bill suggests that all summons cases with punishment up to three years are to be tried summarily. So, in future, there will be more cases under this head. At present, 153 offences in the Indian Penal Code are such which are being summarily tried. But, by making this amendment, there will be 58 new offences added to the list and total will be 211 offences, which can be tried summarily. This also needs to be taken care of. I think this provision has been introduced in a hurry. It should be further looked into and scrutiny of each of the 58 new offences should be undertaken to see which out of them deserves summary trial and which deserves usual summons or warrant trial. This word of caution has been given in the Departmental Committee Report also.

Changes in the law relating to arrest have been delineated in detail. They are all laudable because they aim at ensuring curtailing arbitrary police power and giving right protection to fundamental right of life and property to the accused or to the offender. How arrests are to be made? Very detailed instructions have been given, which have been an outcome of a Supreme Court decision.

I think, Sir, I will be ending very soon. I can see smile on your face and I will conclude very soon.

Most of the points have been dealt with. As far as adjournments are concerned, no adjournment should be granted at the request of the party unless circumstances are beyond the control of that party. I think that is sane.

Regarding protection of woman, I think, distinguished Member from our side, Shrimati Maya Singh, will be speaking more about it. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Your time is almost exhausted.

DR. GYAN PRAKASH PILANIA: I stop it here. I just stop with the hope that our very sane and distinguished Home Minister, who himself is a person of great eminence as far as law and finance are concerned, will fulfil this promise. The Committee recommends to the Government to have a relook at the entire Bill. I don't know whether he would like to have a relook or not, but this is what Committee has suggested. I feel, let us not hassle through; let us not hurry through. I can understand that there is a hurry for a very special law to check terrorists. There is a hurry for National Investigation Agency. Can this Bill wait for few months more as it has waited for years and years? The Committee has recommended the Government to have a re-look at the entire Bill. In the light of observations and recommendations made in the detailed Report, the Committee in this context, would like to reiterate recommendations made in the 111th Report that the Government should attempt to bring forward a comprehensive Bill for revamping the entire criminal jurisprudence.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Your Party's time is over.

DR. GYAN PRAKASH PILANIA: Not Party's time, Sir. You are so kind. She is a lady. She will need your indulgence and goodness. I conclude, Sir, with grateful thanks to you for your kind patience and very special thanks to the hon. Home Minister for listening to me, or not listening to me; I do not know. I know, he must have listened because he has that capacity.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): He is listening.

DR. GYAN PRAKASH PILANIA: He is talking to the other Minister. He is listening to me also. That is his special qualification. Thank you very much, Sir, and I wish best of luck to the new Home Minister in all his endeavours.

DR. E.M. SUDARSANA NATCHIAPPAN (Tamil Nadu): I fully support the Code of Criminal Procedure (Amendment) Bill, 2006. Actually, after hearing Mr. Pilania, who is a former DGP, I feel that we have to be very careful in reading this Bill because Police people are bit happy after hearing about this new amendment. But, at the same time, it addresses the issue at the international level. Even though, we were not party to the International Convention Against Torture, these issues, which were raised in the International Convention, are also addressed here. In certain ways, this is a departure from the system which we are following is adversarial system of jurisprudence. We are now converting ourselves gradually to the investigative system of jurisprudence. Therefore, we are gradually tilting towards the European model and we are allowing the parties, who are outside the Judges or jury, also to play a part in executing the criminal jurisprudence in a proper way to render the justice. Therefore, I feel the system, which is now followed by the British model, is gradually diluted and the fear of the Police is gradually taken away, and the Police should also feel that they are prince of a democratic country and they have to help the victims and they have to protect the interest of victims and they have to protect the interest of the witnesses. All these issues are, in one way or the other, addressed by this amendment. Therefore, I fully appreciate the hon. Home Minister to have brought this law at an appropriate time. In the Bill, we find that the summary proceeding, which was normally done in very petty cases, has now been brought up to higher level of punishment cases, where the offence is treated for two years or more punishment period. That is also brought to the level of summary proceeding. Therefore, the Judiciary should also be sensitised to use this opportunity to render justice in a proper way. We have to see that the victim should get proper remedy. The rehabilitation and also the compensation package are provided in amendment. But, at the same time, we are giving more importance to the system of procedure, for example, the arrest procedure which was followed in criminal rules of practice. Normally, it was done as a part of Police standing orders. Now, it is made a part of the Criminal Procedure Code — in which way you can arrest a person; at what time you can arrest a person; what medium to arrest in a cognisable offence; even if the Police officer was a witness to a cognisable offence, whether he

has got a right to make the arrest, what medium to make that level of arrest. These are all addressed by this amendment. Therefore, we feel, it is a good procedure. But, at the same time, we have to see that the Police officers are well trained in following this procedure. If we lay the procedure and it is not followed, there is no purpose in having such an amendment. The knowledge and habit of the police system is like that they violate the rules which are already laid. Therefore, this laying of a very consistent step-by-step procedure is to be followed just like the American system because we used to read in the Perry Mason novel how an advocate was aiding a particular victim in getting the justice. In the same way, this new procedure allows an advocate to be present along with the victim and also with the other part, that is, the accused also.

More so, regarding the victim side, another important procedure which was followed in the earlier Criminal Procedure Code was that with the permission of the Court, a person could assist the Public Prosecutor. But, now, it has been given as a right itself, more or less, as an opportunity for the victim to have legal assistance throughout the case. This means that even if the State has not proceeded for the appeal against the acquittal, then, the victim will have the opportunity to use this facility. Therefore, I hope, this will enable them to get justice at the higher level also.

Coming to arrest procedure, it is made applicable only when there is apprehension that the accused may not cooperate in the investigation, or, a person, who may be a witness initially but subsequently made as one of the accused, is also compelled by way of giving notice to cooperate in the investigation. If they do not cooperate, they can be arrested and for that Clause 41 A is included.

Also, the police has been given the direction that they should have a control room at the District level also. There is also a proposition, as I already said, that aid of an Advocate can be taken at the time of the arrest of a particular accused. It has been incorporated by way of 41D, and, that is a very excellent right given to any accused.

Nowadays, many cases with regard to violation of women's rights by the police officers are reported. There is a clear mention that women police alone can arrest a female person, otherwise, arrest can be made only on oral intimation of arrest. This is also a very good proposition, which is being made as a part of the law.

There is a very good mandatory provision that a female Registered Medical Practitioner shall accompany the arrested person in case the arrested person is a female.

Sir, the custodial deaths are reported in every State, and, in certain States, these are much more in numbers. Therefore, the type of medical certificate when a person is arrested and put in custody, will help to find out as to whether he was tortured by the police or not. Therefore, it is a very good departure, which is really addressing the issue of human rights activists.

With regard to care of the health and safety of the accused is also addressed by Clause 55A. Here, I would like to draw the attention of hon. Home Minister that prison reforms should

be there. Sir, when the police stations get the custody of the prisoners — in some cases, the judicial custody also — the prisoner's health is not properly looked after, even though, we are following the ancient Prisoners Rules formulated during the British regime. Even after submission of so many reports on this issue, we have not come forward and we have not gone for that. Normally, most of the people who are victims in a particular case, when they are put in to the judicial custody or prison, they are converted into criminals. This is the system being created within the prisons. There is no reformative system followed. Today, the system is such where the person who is a holy enough, when pushed into the prison and comes out, becomes an unholy person and becomes a party to many criminal activities. Therefore, reforms of the prisons should also be looked into.

Similarly, provisions regarding protecting the rights of the rapevictims of the age of 18 years and above, and, also of the child being raped, which are given here are good provisions.

Regarding Section 164, the confessional statements given by the witnesses, and, in certain cases by accused, are now electronically recorded, and, a copy of the statements which are recorded by the Magistrate has to be furnished to the police officer. That is also provided here by way of amendment. A departure has been made by making immediate punishment for the perjury. It means if the witness gives a statement under Section 162, he has to sign it. It is a complete departure from the practice which was not at all before us as practising lawyers. The lawyer used to ask the witness whether he signed the statement or not. If he signed the statement, it would not be considered as a piece of evidence. But now a person has to sign it and, at the same time, he can get a copy of that statement also. That would be treated as an acknowledgement of the statement. Therefore, that can be used against him if he goes away from it.

Another provision is given here. If a magistrate or a judge finds that a particular witness is deviating from his own statement, which was recorded either under Section 162 or under Section 164, then he can be punished immediately for a period of more than three months to one year. That type of punishment is also given.

But it will take some more time to be understood by an ordinary citizen. Many people are brought in as cooked up witnesses. They have no knowledge about it, but their statements are recorded. Now they can easily get a copy of it as acknowledgement. But, at the same time, due to his ignorance, when he comes into the box and he could not follow the statement which was already recorded under Section 162, immediately, he will be penalised and put inside the jail. Therefore, it has to be applied carefully till maturity comes at the level of citizens. We have to sensitise people also. Police officers, witnesses, prosecutors, judges, and defence lawyers, everybody should have the knowledge that this is the new system which we are following. Otherwise, there will be a lot of people who will be prejudiced by way of this new system which is going to be followed.

But we appreciate this measure. It is a very good thing for a civilised society where we are trying to educate the people through the *Sarva Shiksha Abhiyan* and other system.

They have to develop their knowledge in this system also. They should come forward to help the administration and also the police in getting justice for the victim.

Regarding remand, a provision is given. Remand can be extended. It is based on many judicial pronouncements. Even through electronic video, remands were also allowed in certain cases. It is also a very dangerous thing. It has to be applied very carefully, because many people will be tortured in the prison. But now his remand will be extended through this. The opportunity to look at the person physically by a magistrate is now missing. Therefore, it has to be handled very carefully.

On summary proceedings, I would like to draw the attention of the hon. Home Minister that when it is applied, the judiciary should cooperate with us, because we are giving it the right to make summary evidence. That means they have to comprehend it in its entirety whether it is the examination, or the cross-examination or the re-examination, and make it or put it in a summary way. They should not leave certain things according to their fancy. The Judiciary should completely cooperate with us. Then only we can reduce the pendency of cases. And then we can provide justice to both the sides by summary trial.

Regarding compounding, it is a very good effort to reduce the number of cases and also the enmity between parties, which may exist, if a person is convicted at the end of it. A chance is being given for amicable and peaceful solution through compounding of offences.

But there is some irritation. I hope the hon. Member, Shrimati Brinda Karat, may highlight it. But, at the same time, I have got the duty to just indicate the liberal nature of diluting the things, just like adultery under Section 497. It can be compounded if the husband of the woman accepts it. And then, enticing or taking away or detaining with a criminal intent a married woman under section 498 is also compoundable. I feel, these are all too much for us, for a society which has joint family system and conservative mind. We should not allow so easily the offender to escape the clutches of law who knows that he cannot be expected, when he commits an offence under section 497 or 498, to be set free on the basis of the compounding. Similarly, causing miscarriage. How can we allow that to go in for compounding? It's totally unimaginable for us. Section 312 is for causing miscarriage to a woman. Sir, this is too much and we cannot tolerate it. I feel it has to be re-looked. Next is section 354 which provides for assault or criminal force to woman with intent to outrage her modesty. How can we allow section 354 to be compounded? This is very easy for hooligans who are sitting on the roadsides. Look at the case of one college student in Chennai who was assaulted and criminally forced. She died on the spot. Many people are in the trauma. Many adult girl students are not at all able to cope with this type of assault in the society. Mr. Rao is saying that many cases are coming up in the name of ragging. Ragging is prohibited in certain areas by way of State laws. Even then, how can we allow it to be compoundable? If that is so, it is easy for the person to do the offence and then threaten again

that if you do not come forward to compound, then, I will do this and that. In this way, you are increasing the degree of the offence. Therefore, I feel that this type of thing has to be re-looked. Similarly, marrying again during the lifetime of the husband or wife. How can we pardon it? When you want to have a 'single wife, single husband' concept, how can we pardon that you can marry anybody and you can compound it subsequently? The husband or the wife of the person so marrying can come and say that it can be compounded. It is also too much. Section 509 provides that uttering words or sounds or making gestures or exhibiting any object, intending to insult the modesty of a woman or intruding upon the privacy of a woman. To whom? To a woman whom it was intended to insult or whose privacy was intruded upon. A lady can come out and complain under Section 509. That itself shows the culture. But, when they come out and when you allow it to be compounded, then, everything goes wrong. That cannot be controlled. We are not helping the privacy of the women. We are not giving importance to women, at least, in the mind of the Indians. We may have many cultures, we may have globalisation everywhere, but, we have to retain our joint family system, we have to retain our Hindu way of life and we have to retain our Indian way of life. That has to be protected.

Sir, many new innovations are also there and I feel, this is a new way of thinking and this has to be totally sensitised. Also, it has to bring a change in the mindset and in the set-up of the judiciary. There should be a total change in the minds of the prosecutors, police officers, defence lawyers, witnesses, victims, jail wardens and everywhere. Then only this amendment will be a successful amendment. Thank you very much, Sir.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Thank you Mr. Natchiappan. Next, Shri Prasanta Chatterjee. See, we have to pass it before 2.00 p.m. Your party has eight minutes. But, there is one more speaker. Shrimati Brindaji will also be speaking. Therefore, try to be brief. That's all. *(Interruptions)* I only said that try to be brief. I didn't say more than that.

SHRI PRASANTA CHATTERJEE (West Bengal): Sir, I will not take much time.

Sir, this is a very important Bill. The Standing Committee has elaborately discussed it. Many of the amendments have been accepted by the Ministry, by the Government, and, thereafter, you will see, Sir, that the serial numbers have been changed. I would like to bring it to the notice of the Minister that with the acceptance of the amendments, that will have to be corrected. Sir, we all know that amending the Cr.PC alone is not enough to make the society crime free. The socio-economic conditions of the people, the awareness of the people, the political and social awareness, strengthening of the same, strengthening of the judiciary, active involvement of the elected bodies, these are all important to make the society crime free or to have less crimes in the society. Actually, the role of judiciary is also very important. With this idea in mind, we have to find out how the police authorities can be made people-friendly. We should not make them harsher. By doing so, the number of crimes will come down. There should be a very balanced approach between the two. At the same time, strengthening the police authorities is necessary;

strengthening the implementation of the Acts is also necessary. Some good changes have been made in the Bill which was originally circulated. There is a great change. It is good that on page 3, we find that the detention of a person is necessary for his safety; that has been deleted. "The engagement of an advocate at the choice of the victim" has been inserted in the Bill; this is very good. On page 3, in clause 6, in section 41, there is a mention of words that "to appear before him or such other places..." My request is that the place should be made very specific, either within his limits of his own or in the adjoining areas, where he is to appear. It will be good to make the place very specific.

Sir, good changes have been made. On page 4, we have found in 54(1) that the Government medical practitioner has been given the preference, and in case of a female arrestee, the female medical practitioner has been given the preference. It is a very good change that has been effected here.

Sir, we all know—please refer to clause 11 on page 4—that the woman judges are presently inadequate. A sufficiently good number of efficient woman judges are necessary. Even that is equally required in respect of male judges. Very recently, we came to know that unsatisfactory appointment of judges has been cited as one of the reasons for accumulation of many court cases. The Minister has circulated it. It is good that while dealing with section 157, in clause 11, it has been stated: "In case of an offence of rape, the recording of the statement of the victim shall be recordance at the residence of the victim or at any other place of her choice, as far as practicable, by a woman police officer in the presence of her parents or a guardian." It is very good that this has taken place.

Sir, another suggestion is that in line 33 on page 3, in 41C(2) it is stated: "The State Government shall cause to be displayed..." The word, I would like to request, 'forthwith' be added immediately. Sir, it is better to include that word in 41c(2).

Sir, the video conferencing aspect was elaborately discussed in the Committee, and we have suggested to them to be very careful before implementing this facility. The person who appears before the magistrate can explain it better in person. That we all know. To improve the system this is welcome. But we should be very cautious and, particularly, he should not be detained in police custody. We requested the Ministry to be careful so that this wouldn't be misused. So, a fool-proof system is necessary before its implementation. We have made a request in this regard.

As regards the advocate becoming a witness, it was discussed in the Standing Committee. If he remains present during the video conferencing, then he can't appear as advocate. That point was also discussed in the Standing Committee. From our side we have proposed some amendments. Madam Brinda Karat will explain them. So far as compounding is concerned, it was also discussed in the Standing Committee. We should be very cautious because in many of

the clauses women are involved. We want some deletions to be made. Madam Brinda Karat will explain them. We request the Government to consider these amendments. With these few words, I support the Bill and conclude. Thank you.

श्री वीरेन्द्र भाटिया (उत्तर प्रदेश): उपसभाध्यक्ष महोदय, सीआरपीसी अमेंडमेंट बिल, दंड प्रक्रिया संहिता (संशोधन) विधेयक, 2008 पर मैं समाजवादी पार्टी की ओर से बोलने के लिए खड़ा हुआ हूं। इसमें कोई शक नहीं है कि कुछ प्रयास किए गए हैं और कुछ संशोधन वाकई सराहनीय हैं लेकिन वे अभी भी अपूर्ण हैं। इसके अतिरिक्त इसमें कुछ ऐसे प्रावधान हैं जिनके बारे में मुझे कुछ शंकाएं हैं। मेरे पास समय नहीं है कि मैं इसका इतिहास बताऊं। समय सीमा बहुत कम है। How many minutes have you given to me?

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Your party has got seven minutes. If you can stick to that, it will be very good.

SHRI VIRENDRA BHATIA: You please give me some more time. You allow me some more time.

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): You can take one or two minutes more.

श्री वीरेन्द्र भाटिया : मैं सिर्फ सीधे बिल पर आ रहा हूं और आपके समक्ष क्लॉज़ बाय क्लॉज़ मैं अपनी बात रखूंगा। मेरी सबसे पहली आपत्ति क्लॉज़-4 पर है - वृंदा जी कहेंगी और सब लोग भी कहेंगे, मैं क्षमा मांगते हुए कहूंगा:—

"4. In section 26 of the principal Act, in clause (a), the following proviso shall be inserted, namely:—

"Provided that any offence under sections 376 and sections 376A to D of the Indian Penal Code shall be tried as far as practicable by a court presided over by a woman."

सिद्धांतत: मेरी इसमें कोई असहमति नहीं है। मैं मानता हूं कि महिला न्यायाधीश करे लेकिन दो प्रश्न हैं। पुरुषों पर इतना अविश्वास क्यों किया जा रहा है? आज तक जितने फैसले उच्चतम न्यायालय या उच्च न्यायालय ने बलात्कार के मामले में महिला पीड़ितों के पक्ष में दिए हैं, वे सब पुरुष न्यायाधीशों ने ही दिए हैं और अभी तक देते रहे हैं। दूसरा, इसमें एक प्रश्नचिन्ह और है। अगर आप जेंडर के आधार पर न्यायाधीशों को मुकद्दमें देंगे कि यह मुकद्दमा इस जेंडर के लोग ट्राई करें, यह इस पर करें तो क्या यह वॉयलेटिव नहीं होगा? क्या यह उस अधिकार का हनन नहीं होगा? आज आप यह सोच रहे हैं कि महिला न्यायाधीश करेगी। कल को अगर अभियुक्त, जो पुरुष होगा, वह खड़ा होकर यह कहेगा कि आप महिला हैं इसलिए आप जेंडर बायस्ड हैं तो क्या होगा? दूसरा, हम प्रेक्टिकल नहीं सोच रहे हैं कि यह एक फ्लड गेट ओपन कर रहा है। आज एक खिड़की खुल गयी है। कल को कोई खड़ा होगा और कहेगा कि हम ब्राह्मण हैं और आप ठाकुर हैं इसलिए हमारा मुकद्दमा ब्राह्मण जज द्वारा ही किया जाना चाहिए। इसी प्रकार ठाकुर खड़ा होगा और कहेगा कि ठाकुर द्वारा ही किया जाना चाहिए। माइनॉरिटीज़ का आदमी खड़ा होगा और कहेगा कि आप तो मैजोरिटी के हैं, हमारा मुकद्दमा माइनॉरिटीज़ द्वारा ही किया जाना चाहिए। यह एक फ्लड गेट ओपन किया जा रहा है और यह भविष्य के लिए नुकसानदेह होगा। एक अंडरस्टेंडिंग है। हर जगह पर आप एक अतिरिक्त जिला न्यायाधीश आप महिला न्यायाधीश नियुक्त कर दें। जिला जज को एडमिनिस्ट्रेटिव आदेश दे दें। लेकिन कानून में प्रावधान करके मैं समझता हूं कि यह उचित और सराहनीय कदम नहीं है, यह भविष्य में घातक होने जा रहा है। इसलिए इस पर विचार किया जाना चाहिए। जो क्लॉज-41C है वह बहुत सराहनीय कदम है। कम से आज

कौन-कौन सा अभियुक्त गिरफ्तार हुआ है, उसके लिए कंट्रोल रुम होगा तथा उसका डिस्प्ले होगा। यह अच्छा सराहनीय कदम है। लेकिन इसमें एक चीज अभी भी अधूरी है। मैं इसमें कहना चाहूंगाः—

"The State Government shall cause to be displayed on the notice board kept outside the control rooms at every district, the names and addresses of the persons arrested and the name and designation of the police officers who made the arrests".

यह डिस्प्ले सिर्फ पुलिस कंट्रोल रुम में क्यों? जहां थाने पर शुरूआत होती है, वहां पर क्यों नहीं है? आपको शायद अनुभव नहीं है, बहुत से लोग जो यहां बैठे हुए हैं उनको अनुभव नहीं है, मैंने लोअर कोर्ट से लेकर वकालत शुरू की है तब एडवोकेट जनरल बना। मुझे तो लोअर कोर्ट से लेकर हर न्यायालय का अनुभव है और मैं जानता हूं कि सबसे ज्यादा बन्दी प्रत्यक्षीकरण याचिकाएं सिर्फ इसलिए होती हैं कि वे थाने पर डिटेन किए जाते हैं। आवश्यक तो यह है कि थाने पर कंट्रोल होना चाहिए और यह डिस्प्ले सबसे पहले थाने पर ही होना चाहिए कि कौन-कौन अभियुक्त किस-किस समय पर पकड़ा गया है। जब तक आप वह नहीं करेंगे, क्योंकि थाने पर वह बन्दी बना हुआ है और पुलिस कंट्रोल रुम को सूचना नहीं दे रहा है तो क्या स्थिति आएगी। डिस्ट्रिक्ट हैडक्वार्टर में तो सूचना बाद में जाएगी। इसलिए सबसे पहले यह चैक होना चाहिए तथा थाने पर यह सूचना आनी चाहिए तथा थाने पर डिस्प्ले बोर्ड लगा होना चाहिए कि इस नाम का यह अभियुक्त इस अपराध में यहां पर पकड़ा गया है। उसकी आवश्यकता है, केवल छोटा सा संशोधन है। लेकिन इसका प्रभाव बहुत व्यापक होगा।

दूसरी बात, एक चीज और है। क्लॉज-41D है। "When any person is arrested and interrogated by the police, the arrestee shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation."

मंत्री जी, हमारे छोटे से सजेशंस हैं, जो शायद प्रेक्टिकल हैं, उनको सुन लीजिए। उपसभापति महोदय, मेरा अनुरोध है कि मेरी बात सुन ली जाए, मेरे छोटे से संशोधन हैं। इसमें आपने कहा है कि : 'meet an advocate of his choice during interrogation' जो बीच का टाइम है, अरेस्ट और इंटेरोगेशन का, सपोजिंग, कल को एस0एच0ओ0 -अरेस्टिंग आफिसर कहता है कि हमने तो अरेस्ट किया है, हम इंटेरोगेट नहीं कर रहे हैं।

SHRI P. CHIDAMBARAM: Mr. Bhatia, you have not given any amendments.

SHRI VIRENDRA BHATIA: I am only making a request to you. I know it. I have not given. But this is my suggestion.

'To meet an advocate of his choice during interrogation.' It should be immediately after arrest also.

SHRI P. CHIDAMBARAM: Which clause are your referring to?

SHRI VIRENDRA BHATIA: . Clause 41 (D). इसका वे मिस-यूज कर सकते हैं कि इसका इंटेरोगेशन तभी होगा जब हम इंटेरोगेशन शुरू करेंगे, अभी तो हमने अरेस्ट किया है। immediately after arrest an advocate should be allowed to meet the person who has been arrested at any time.

दूसरा, मेरा एक सुझाव और है। जब महिला अभियुक्त गिरफ्तार की जाती है, तो आपने कहा कि During interrogation, not throughout interrogation. मेरा इसमें एक सुझाव है कि जब महिला अभियुक्त पकड़ी जाए तो पूरे समय उसके पास एक महिला अधिवक्ता को रहने की इजाजत दी जाए। यह मेरा एक सुझाव है, क्योंकि महिलाओं को पकड़ा जाता है और प्रावधान के बाद भी उनकी गिरफ्तारी रात में होती है और दिखाई नहीं जाती और गिरफ्तारी सवेरे दिखाई जाती है। थाने पर उनके लिए क्या शब्द प्रयोग किया जाता है, किस

प्रकार से महिला अभियुक्तों का अपमान किया जाता है, मैं उसके बारे में नहीं कहना चाहता। इसलिए उसके इंटरोगेशन के समय एक महिला अधिवक्ता या कोई भी अधिवक्ता का वहां पर रहना आवश्यक हो। मेरी एक आपत्ति है... As regards Section 161, it has been stated in clause 12, "Provided that statement made under this subsection may also be recorded by audio-video electronic means:

Provided further that in respect of offences specified in sub-section (1) of section 164(B), where such person is required to be forwarded to the nearest Magistrate for recording this statement under that section, his statement to the police officer shall not be reduced into writing under this sub-section." Then, it further says: "Provided that where any statement has been recorded under section 164 B, the police officer shall enclose a copy of such statement as part of his police diary..." I have no objection to that. But in clause 13, it says: "The statement made by any person to a police officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it. I oppose it. इसका एक कारण है, 161 का स्टेटमेंट अभी साइन नहीं होता। जब आप 161 का स्टेटमेंट साइन करा लेंगे — आप स्थिति समझ सकते हैं कि पुलिस आफिसर के सामने कोई भी गवाह — जिस तरह से असत्य 161 के स्टेटमेंट लिखे जाते हैं और उसके बाद दस्तखत करा लेंगे ...**(व्यवधान)**...

SHRI P. CHIDAMBARAM: Are you talking about the new Section 162 in the Amendment Bill?

SHRI VIRENDRA BHATIA: Yes.

SHRI P. CHIDAMBARAM: An official Amendment has been moved to delete that Section and restore the original Section.

श्री वीरेन्द्र भाटिया: मैं फिर आप से यह कह रहा हूं कि जो आपने कहा है कि ...if reduced into writing, be signed by the person making it. That is another thing.

SHRI P. CHIDAMBARAM: Which portion are you referring to? It is from Page 5, is it? Kindly listen to me. The whole of this is being deleted, and the original Section in the Criminal Procedure code is being restored. So, this Amendment is not being done

SHRI VIRENDRA BHATIA: Then I take back my objection. Now, as regards section 164, in clause 14, it is stated: "Provided that any confession or statement made under this sub-section may also be recorded by audio-video electronic means." There is a room for misuse of this provision. When you want that it is admissible in the evidence, then, for making a statement before the Magistrate, he should go before the Magistrate. Otherwise, आपने एक जगह थाने पर खड़ा कर दिया तथा साथ में चार पुलिस वाले खड़े हैं और उससे confess करा लिया। मैजिस्ट्रेट को क्या मालूम कि चार आदमी बंदूक लिए हुए खड़े हैं ... Then, that will be a statement made under duress. When you say, "in the presence of a lawyer", even the presence of a lawyer can be excused at that time. Then, what will happen? Now if that lawyer is to defend him, then, will he be a witness? And, I know of cases where the police engage a lawyer, and the police say, "This is the lawyer", and they move a bail application." I know of several such instances.

SHRI P. CHIDAMBARAM: I don't want to interrupt at every stage, but I thought it would save a lot of time. If you are referring to clause 14, then, Section 164 is already there in the Code of Criminal Procedure ...*(Interruptions)*... I am not a criminal lawyer. You are one...

SHRI VIRENDRA BHATIA: I am not a criminal lawyer. I am a lawyer practising especially on the criminal side. Don't say that I am a criminal lawyer.

SHRI P. CHIDAMBARAM: Sir, Section 164 requires that a confession or a statement can be recorded by a Metropolitan Magistrate or a Judicial Magistrate. Nobody else can record it. No change is being made there. This is a proviso to Section 164 (1). So, when the Magistrate records a confession, the clause applies, "Provided that any confession or statement, made under this sub-section", by the Magistrate, may also be recorded by audio-video means. The original recording is not taken away. The Magistrate will record it. This provision says, "It may also be recorded." So, there is nothing wrong with that.

श्री वीरेन्द्र भाटिया: महोदय, मैं जानता हूं कि "में" का तात्पर्य क्या होता है। यह मजिस्ट्रेट को अधिकार देता है कि वह किसी भी विधि द्वारा उसे रिकॉर्ड कर सकता है, लेकिन इन अधिकारों का कितना दुरुपयोग हुआ है, हम इससे आंखें बंद नहीं कर सकते हैं। आप कह दें कि साठ किलोमीटर दूर जेल में बैठा हुआ है, ऑडियो-वीडियो रिकॉर्डिंग कर लीजिए, लेकिन मजिस्ट्रेट किस प्रकार से कार्य करते हैं, उस बारे में बहुत सी चीजें मैं बताना नहीं चाहता हूं। मैं समझता हूं कि ऑडियो, वीडियो रिकॉर्डिंग से अभियुक्त का बयान रिकॉर्ड नहीं होना चाहिए। जो बात वह मजिस्ट्रेट के सामने उपस्थित होकर कह सकता है, वह ऑडियो, वीडियो रिकॉर्डिंग में नहीं कह सकता है। किन परिस्थितियों में वह अपना स्टेटमेंट रिकॉर्ड करवा रहा है, उस संदर्भ में यह उचित नहीं है, मैं इसका विरोध करता हूं। अगर आप समझते हैं कि वह सिर्फ 164 का एडिशन है, आपने प्रोविजो कर दिया, इसमें कोई सब्शटेंशियल चेंज नहीं किया है तो उसे रहने क्यों नहीं देते हैं? इस एडिशन की क्या आवश्यकता पड़ी?

तीसरी बात, 167 में आपने जो अमेंडमेंट दिया...(व्यवधान)...

उपसभाध्यक्ष (प्रो. पी.जे.कुरियन): भाटिया जी, समाप्त कीजिए।

श्री वीरेन्द्र भाटिया: मैंने इसीलिए कोई इतिहास बताना शुरू नहीं किया है। परंतु जो मेरी समझ में आ रहा है, but the Magistrate may extend subsequently, every time. 167 में आपने जो संशोधन किया है, बिना उसकी उपस्थिति के भी रिमांड दिया जा सकता है, मैं उसका भी विरोध करता हूं। अभियुक्त की उपस्थिति मजिस्ट्रेट के सामने रिमांड के लिए अत्यंत आवश्यक है। नई सी.आर.पी.सी. में यह संशोधन इसीलिए किया गया था। इसी को दस्तख्त रखते हुए किया गया था कि अभियुक्त का अपना अधिकार होना चाहिए कि जब वह मजिस्ट्रेट के सामने व्यक्तिगत रूप से उपस्थित हो, तो अपनी बात कह सके। बहुत सी बातें छूट गईं...(व्यवधान)...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Bhatiaji, please conclude.

श्री वीरेन्द्र भाटिया: मैं समय सीमा समझ रहा हूं, परंतु आप मेरी भी समय सीमा समझ लीजिए, आपने गिरफ्तारी के संबंध में ...**(व्यवधान)**...

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): टाइम खत्म।

श्री वीरेन्द्र भाटिया : मुझे आप पांच मिनट कह लेने दीजिए। टाइम सभी के लिए खत्म नहीं होता। अगर टाइम मेरे लिए खत्म हो जाता है तो मैं ही बैठ जाता हूं, इसमें क्या दिक्कत है। मैं इतनी महत्वपूर्ण बात कहना चाहता हूं और आप कहते हैं कि चुप बैठ जाओ। आप एक बात समझ लीजिए, आपने जहां तक गिरफ्तारी के संबंध में कहा है...(व्यवधान)...

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): आपकी पार्टी का टाइम सात मिनट था, आपने पंद्रह मिनट लिए हैं। **...(व्यवधान)...**

श्री वीरेन्द्र भाटिया: आप सुन लीजिए। मैं बहुत संक्षेप में बात कह रहा हूं। जहां तक गिरफ्तारी की बात है, गिरफ्तारी के संबंध में **...(व्यवधान)...**

SHRIMATI JAYA BACHCHAN (Uttar Pradesh): There were interruptions. ...*(Interruptions)*...

श्री वीरेन्द्र भाटिया : सेक्शन 41 में आपने जो संशोधन किए हैं **...(व्यवधान)...**

THE VICE-CHAIRMAN (PROF. P. J. KURIEN) : What did you say? ...*(Interruptions)*... What are you saying? ...*(Interruptions)*... I am not interrupting. Don't make such comments. Why do you say, 'don't interrupt me?' I am not interrupting you.

SHRIMATI JAYA BACHCHAN: I never said, 'don't interrupt me'. I said, 'there were interruptions, Sir.'

THE VICE-CHAIRMAN (PROF. P. J. KURIEN) : Okay, okay. ...*(Interruptions)*... Not interruptions; not interruptions. There were interactions between the Minister and himself. That was very useful; very educative also. ...*(Interruptions)*...

SHRIMATI JAYA BACHCHAN: But, don't point a finger at me. ...*(Interruptions)*... You can't talk to me like this.

THE VICE-CHAIRMAN (PROF. P. J. KURIEN) : What are you doing?

SHRIMATI JAYA BACHCHAN: You can't point a finger at me like this. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN) : You can't point...*(Interruptions)*... Please; please. The hon. Member should not point finger to the Chair.

SHRIMATI JAYA BACHCHAN: You did it, Sir. I am saying, 'you please don't do it'. You pointed a finger at me. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): You behave properly, hon. Member. Please behave properly. You should know how to behave. Please, take your seat. ...*(Interruptions)*... Please, take your seat. Don't point finger to the Chair. ...*(Interruptions)*...

श्री वीरेन्द्र भाटिया : आपने सेक्शन 41 में जो संशोधन किए हैं, इसमें कोई शक नहीं है कि ये बड़े क्रांतिकारी हैं..(व्यवधान)..

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): जल्दी खत्म कीजिए।

श्री वीरेन्द्र भाटिया: **...(व्यवधान)...** मैं बहुत प्रेसाइज कर रहा हूं। सेक्शन 41 में आपने जो संशोधन किए हैं, वे वाकई में प्रशंसनीय हैं, लेकिन मैं थोड़ी सी बात और कहना चाहता हूं कि यह बात छिपी नहीं है कि एफ.आई.आर. में फाल्स इम्प्लिकेशन बहुत किये जा रहे हैं। मेरा आपसे अनुरोध है कि इस पर विचार कीजिए कि जोगिन्दर कुमार के केस को फोलो किया जाना चाहिए। छोटे-छोटे अपराधों में, जिसमें दो वर्ष से कम की सजा है, कम से कम उसमें व्यक्ति को जेल नहीं भेजा जाना चाहिए। आज बदला लेने के लिए 323 नॉन कॉग्निजेबल है, 147 लगाकर आदमी जेल भेज दिया जाता है। इस प्रवृत्ति को रोका जाना चाहिए। पुलिस अपने

अधिकारों का दुरुपयोग कर रही है। इसलिए कुछ इस प्रकार की प्रक्रिया करं कि जिनमें दो वर्ष से कम की सजा का प्रावधान है, उसका मिसयूज रोका जाना चाहिए। फिर भी यह स्वागत योग्य कदम है, इसमें कोई शक नहीं है। एक अमेंडमेंट, जिसका मैं बहुत विरोध करता हूं, 309 में, आपने जो एडवोकेट्स के बारे में कहा है, उसका मैं पूर्णतया, जितनी मेरी शक्ति है, उस शक्ति के साथ विरोध करता हूं।

यह सही है कि आजकल मुकदमों में देरी हो रही है, लेकिन देरी के लिए सिर्फ वकीलों को जिम्मेदार ठहराना, यह ठीक नहीं है। यह वैसा ही है जैसे टेरोरिस्ट अटैक के लिए आज सारा देश राजनीतिज्ञों को जिम्मेदार ठहरा रहा है। कृपया दो मिनट में मेरी बात सुन लें। आपने 309 में संशोधन किया और 303 CrPC में आप कह रहे हैं, "An accused has a right to be defended by a lawyer of his choice". Is it not contradictory to that? जज बीमार हो जाए, उसे छींक आ जाए, तो वह घर पर बैठ जाता है। अगर वकील बीमार है या कहीं पर व्यस्त है, तो आप उससे कहेंगे कि दूसरा वकील कीजिए। उसने फीस एक वकील को दे रखी है और आप बहस दूसरे वकील से कराना चाहते हैं। क्या यह धारा 303 CrPC और उसके मौलिक अधिकारों के विपरीत नहीं है? वह चिदम्बरम साहब से बहस कराना चाहता है और वहाँ पर हम पहुँच जाएँ कि साहब, वे तो दूसरे कोर्ट में व्यस्त हैं। मैं समळाता हूँ कि यह criminal jurisprudence के खिलाफ है और वकीलों के खिलाफ है। मैं चिदम्बरम साहब से यह उम्मीद नहीं करता था कि वे वकील होते हुए सारा दोषारोपण वकीलों पर कर देंगे। उस समय मजिस्ट्रेट क्या करेगा? पुलिस तमाम adjournments लेती है, गवाह नहीं आते हैं। आप यह कह सकते थे कि इसको misuse नहीं किया जाना चाहिए। यह उच्चतम न्यायालय तक ने कहा है कि 309 का दुरुपयोग हो रहा है। उसको रोका जाना चाहिए। अगर witness आया हुआ है, तो उस पर heavy cost लगा देनी चाहिए। लेकिन अगर आप कहें कि आज वकील बीमार हो गया है, तुरंत दूसरा वकील कर लीजिए, तो यह न तो सम्भव है और न यह होगा। यह केवल वकीलों पर दोषारोपण करने के लिए लाया गया है और वकील विरोधी है।

इसके बाद अन्त में मैं अन्तिम बात कहना चाहता हूँ कि आपने compounding की बात कही है। यह बहुत अच्छा है कि बहुत से sections compounding किए गए। लेकिन अभी जैसा डा. सुदर्शन नाच्चीयप्पन जी ने 494 के बारे में कहा, यह तो बहुत अच्छा है कि दूसरी शादी कीजिए, social fabric को नष्ट कीजिए, सामाजिक मर्यादाओं को नष्ट कीजिए और उसके बाद compounding करा लीजिए। इसी प्रकार से 509 है। ठीक है, इसका महिलाओं पर इतना प्रभाव पड़ेगा कि महिलाओं पर कितना दबाव डाला जाएगा, इसकी आप कल्पना नहीं कर सकते। इसका समाज पर दूरगामी परिणाम होगा। मैं नहीं समझता कि इस प्रकार के अपराधों को compounding बनाना चाहिए। इसके विपरीत, जैसा अभी उधर से कहा गया, 498(ए) का दुरुपयोग हो रहा है। अभी बताया गया कि स्टैंडिंग कमेटी की रिपोर्ट भी है कि 498 का किस प्रकार से दुरुपयोग हो रहा है और वह परिवारों को तोड़ रही है। मैं अन्तिम बात ही कह रहा हूँ। 498(ए) का दुरुपयोग हो रहा है। इसलिए 498(ए) को ऐसा बनाइए, क्योंकि उसमें महिलाओं की गिरफ्तारी हो रही है, ननद की गिरफ्तारी हो रही है। वह विदेश में है और ननद पकड़ी जा रही है, सास पकड़ी जा रही है। अभी जो आँकड़े आए हैं, उनमें यह भी आया है कि 498(ए) के 50 परसेंट केसेज false पाए गए। इसलिए उसका दुरुपयोग हो रहा है। उसमें कुछ ऐसी व्यवस्था कीजिए कि जब तक उसमें investigation complete न हो जाए, तब तक उसमें गिरफ्तारी न की जाए। उससे परिवारों को फिर से जोड़ने का कम-से-कम एक मौका मिलेगा। अगर किसी पति की माँ, बाप, बहन, भाई बन्द हो जाते हैं, तो उसके बाद उनके परिवारों को आपस में जोड़ने की बात फिर नहीं रह जाती है। इसलिए परिवार जुड़ने को देखते हुए कम-से-कम 498(ए) को compoundable बनाइए।

मैं अन्तिम वाक्य सिर्फ यह कहना चाहता हूँ कि सारी अविवाहित लड़कियाँ जेल भेजी जा रही हैं, आपने सारा दोषारोपण हम पर कर दिया, वकीलों पर कर दिया, चूँकि मैं वकीलों का प्रतिनिधि हूँ, इसलिए यह बात कह रहा हूँ, आप अपने बारे में भी तो सोचिए! चार-चार साल से अफजल गुरु को फाँसी हुई पड़ी है और चार साल से आपकी सरकार याचिका का निस्तारण नहीं कर पा रही है, जनता हमसे यह भी पूछती है। आप

न्यायालयों और वकीलों पर दोषारोपण कर रहे हैं, पहले आप अपने दामन में भी तो झाँक कर देखिए। चार वर्ष लगते हैं, जिन लोगों को सजा हुई है, उनकी याचिकाएँ लम्बित हैं, चाहे वह अफजल गुरु हो, चाहे कोई और हो। आप चार वर्ष से फाइल move नहीं कर पा रहे हैं! आप दूसरों के लिए क्यों कह रहे हैं, दूसरों पर आरोप क्यों लगा रहे हैं? पहले आप अपना चेहरा देखिए, पहले उनका निस्तारण कीजिए, फिर वकीलों पर दोषारोपण कीजिए। धन्यवाद।

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Your Party's time was seven minutes but you took twenty-two minutes. राजनीति प्रसाद जी, आप अपनी बात पांच मिनट में ही खत्म करें तो अच्छा होगा, क्योंकि दो बजे हमें यह बिल पास करना है।

श्री राजनीति प्रसाद (बिहार): आप पांच मिनट में ही घंटी बजा दीजिएगा, मैं खत्म कर दूंगा। **...(व्यवधान)...**

श्री वीरेन्द्र भाटिया: आप हमें भी सुन लिया कीजिए, दिक्कत यह है कि आप हम लोगों को सुनते नहीं हैं।

श्री राजनीति प्रसाद: आप रुकिए, रुकिए।

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): राजनीति प्रसाद जी, आप बोलिए।

श्री वीरेन्द्र भाटिया: जया जी क्या बात कह रही थीं, लेकिन आज आपने जया जी को ही कह दिया। * जया जी वरिष्ठ सदस्य हैं और इनको आपने जिस तरह की बात कही, *

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): You are sitting and speaking. ...*(Interruptions)*... You should know the rule. ...*(Interruptions)*...

श्री वीरेन्द्र भाटिया: नहीं-नहीं, सर। हम रूल्स जानते हैं, लेकिन हम एक बात देखते हैं कि हमेशा समाजवादी पार्टी *

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): What is your problem?

श्री वीरेन्द्र भाटिया: मैं दूसरी पार्टियों के संबंध में आपको दिखा दूंगा, सात मिनट के बजाए वे बीस-बीस मिनट बोलते हैं और *

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): It is not correct. ...*(Interruptions)*...

श्री वीरेन्द्र भाटिया: वह इस सदन की वरिष्ठ सदस्य हैं और आप उन्हें इस तरीके से इंगित कर रहे हैं और दूसरी ओर हम महिलाओं की बात कर रहे हैं।

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Do not make such allegations. ...*(Interruptions)*... This is wrong. ...*(Interruptions)*... I want to make it clear that the Congress Party had 34 minutes...*(Interruptions)*... This is not correct. You see even the Congress Party...*(Interruptions)*...

श्री वीरेन्द्र भाटिया: हम लोग यह एक घटना के आधार पर नहीं कह रहे हैं, चूंकि ऐसा हो रहा है, इसलिए हमें यह कहना पड़ रहा है।

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Your time was seven minutes but you took more than twenty-two minutes. ...*(Interruptions)*... Whereas the Congress Party had...*(Interruptions)*... Please do not make such allegations. ...*(Interruptions)*... That will not go on record. ...*(Interruptions)*...That will not go on record. ...*(Interruptions)*...

श्री वीरेन्द्र भाटिया: * *

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*Expunged as ordered by the Chair.

* *Not recorded.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Please take your seat. ....*(Interruptions)*... You are such a learned man, you are an advocate, how can you talk and behave like this? Let me make it clear since you are making an allegation against the Chair that Congress had 34 minutes, it took less than half of its time, BJP had 26 minutes and took not a single minute more than that, CPM had eight minutes and its Member has taken seven or eight minutes, SP had seven minutes and Bhatiaji started speaking at 1.12 and finished at 1.35 which means he took 23 minutes. ...*(Interruptions)*... In place of seven minutes, I allowed him to speak for more than 22 minutes. ...*(Interruptions)*... In place of seven minutes, I allowed him 23 minutes. No other party was allowed so much excess time. And then if such a senior Member is making an allegation like this, it is wrong. It should not have been said. This is unbecoming of a Member to make such an allegation against the Chair.

श्री राजनीति प्रसाद: सर, मेरे पांच मिनट अभी शुरू होंगे न?

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): ठीक है।

श्री राजनीति प्रसाद: उपसभाध्यक्ष जी, आपने मुझे पांच मिनट का समय दिया है और मैं पांच मिनट में ही कन्क्लूड करूंगा। सबसे पहले तो मैं मंत्री महोदय को धन्यवाद देना चाहता हूं कि वह सीआरपीसी में इस तरह का अमेंडमेंट लाए हैं। यह अमेंडमेंट कुछ अच्छे कार्यों के लिए लाया गया है, इसमें कोई शक नहीं है ..(व्यवधान)... लेकिन मैं सिर्फ एक दो बातें ही रखना चाहता हूं और शायद वे पांच मिनट में ही खत्म हो जाएंगी।

पहली बात यह है कि आप सेक्शन 327 में एक अमेंडमेंट लाए हैं और सेक्शन 327 में ट्रायल का जो प्रोसीजर है, ट्रायल का रेप वगैरह के बारे में जो प्रोसीजर है, उसमें आपने लिखा है, "provided that the ban on printing or publication of a trial proceeding in relation to an offence of rape may be lifted" meaning thereby कि उसमें जो पब्लिकेशन का चैप्टर है, उसको आपने लिफ्ट कर दिया और कहा है कि "subject to maintaining confidential the name and address of parties." पहले इसमें यह था कि "Where any proceedings are held in Sub-Section 2, it shall not be lawful for a person to print or publish any matter in relation to any such proceedings except with the previous permission of the court." आपने इसको लिफ्ट कर दिया और कहा कि इसका name and address आप नहीं दे सकते हैं बल्कि आप ट्रायल को निकाल सकते हैं, कोई बात नहीं है। उपसभाध्यक्ष जी, मैं आपके माध्यम से यह कहना चाहूँगा कि यह जो क्लॉज़ है, जो प्रोविज़ो है, वह सही नहीं है, बल्कि जो पहले था उसी को रहना चाहिए। हमारा trial का जो procedure है, अगर आप कैमरा में महिलाओं का ट्रायल कर रहे हैं, तो उसके बारे में बाहर नहीं निकलना चाहिए और पहले निकलता भी नहीं था। ट्रायल जो होता था, उसको लोग पब्लिश नहीं करते थे। लेकिन, अभी जो आपने यह दे दिया कि "The offence of rape may be lifted subject to maintaining the confidentiality of the name and address of the party." जब ट्रायल चलेगा तो नाम और पता तो उसमें रहता ही है, इससे पता चल जाएगा कि किसका ट्रायल हो रहा है। पहले इसको एकदम confidential रखा जाता था, इसमें कहीं भी कोई दिक्कत नहीं आती थी। अब इसको आपने प्रोविजो दे कर खत्म किया है। इस पर आप ज़रा विचार जरूर कर लीजिएगा।

मैं एक बात और कहना चाहूँगा। 164 बी के बारे में आपने कहा है कि उसका मजिस्ट्रेट के यहाँ स्टेटमेंट होगा और मजिस्ट्रेट स्टेटमेंट लेंगे। अब मैं एक बात इसके बारे में कहना चाहता हूँ, जैसा भट्ट साहब ने भी कहा कि एक साइको स्टेटमेंट होता है। यानी जो पुलिस के साथ वहाँ जाते हैं, जो पकड़े जाते हैं और वहाँ पर उनका स्टेटमेंट रिकॉर्ड होता है, तो उसको साइको फीयर होता है। साइको फीयर का मतलब यह हुआ कि वहाँ कोई वकील नहीं रहता है, लेकिन किसी एक्यूज्ड को, किसी आदमी को, जिसको 164 में स्टेटमेंट देना है, उसको

जिस्ट्रेट के यहाँ प्रोड्यूस किया जाता है और बाहर में पुलिस के लोग खड़े रहते हैं। मेरा यह कहना है कि इसमें कोई टाइम गैप देना चाहिए। अगर टाइम गैप नहीं देते हैं तो उनको एक कॉपी देनी चाहिए। उसमें एक प्रोविजन बनाना चाहिए कि अगर आप पुलिस के द्वारा वहाँ प्रोड्यूस किए जा रहे हैं और अगर आपको कोई आपत्ति है, तो आप उसके बारे में अपील भी कर सकते हैं। 164बी में आपने स्टेटमेंट के बारे में कहा है और उसी के आधार पर आपने 344 में कहा है कि अगर आपने स्टेटमेंट दिया है और retract करते हैं तो आपको इस तरह से कानूनी प्रोविजन में ला कर आपको सजा भी दिलवाने का काम होगा। मेरी अपनी राय यह है कि 164 बी में एक प्रोविजन बनाना चाहिए कि अगर मजिस्ट्रेट के यहाँ कोई स्टेटमेंट देता है तो उसको मजिस्ट्रेट के यहाँ से डायरेक्ट फिर उसको जेल में भेजना चाहिए और जो स्टेटमेंट वह दे रहा है, उसकी एक कॉपी उसको देनी चाहिए। अगर उसको ऐसा लगे कि हमने ऐसा स्टेटमेंट दिया है कि हम उसको बाद में दबाव के कारण — क्योंकि 164 का जो स्टेटमेंट है, वह सिर्फ दबाव के कारण होता है, पुलिस भी साथ में रहती है और वहाँ कोई वकील नहीं होता है। इसलिए अगर वह बाद में उसका retract करे या अपील करे कि हमने यह दबाव में दिया था तो उसमें एक ऐसा प्रोविजन होना चाहिए। तभी जो एक्यूज्ड है, जो अपना स्टेटमेंट देना चाहता है, उसको ऐसा लगेगा कि अगर अभी पुलिस ने हमसे जल्दबाजी में यह करा दिया है तो हम बाद में उसको अपील कर सकते हैं, retract कर सकते हैं। इसलिए मेरी यह राय है कि इसमें ऐसा कोई प्रोविजन जरूर होना चाहिए।

अंत में चूँकि 5 मिनट का समय है और एक-दो मिनट तो मेरा ऐसे ही चला गया मैं अंत में यह कहना चाहूँगा कि इस बात को ध्यान में रखा जाए कि जो एक्यूज्ड होते हैं पुलिस को इतना पावर मत दे दीजिए ताकि लगे कि पुलिस को इसमें से सारा पावर आ गया है, आप देख लीजिए। पुलिस को इतना पावर मत दीजिए कि उनका कोई restriction नहीं रहे। उन्होंने लिखा है कि tampering of the evidence और threatening होगी। महोदय, पहले तो हम tampering of evidence के लिए दरख्वास्त देते थे, लेकिन अब तो पुलिस को ही पॉवर मिल गयी है। इस के बारे में भी आप विचार कीजिए। तो ये दो बातें हमने कही हैं, उन्हें इस में संशोधित रूप में लाइए क्योंकि ह्यूमन राइट्स का मामला आता है और torture का भी मामला आता है। इसलिए इस बारे में जरूर विचार कीजिए। इतना कहकर मैं अपनी बात समाप्त करता हूं।

धन्यवाद, आपने मुझे 5 मिनट का समय दिया और आपको घंटी नहीं बजानी पड़ी।

उपसभाध्यक्ष (प्रो0 पी0जे0 कुरियन): श्रीमती माया सिंह।

श्रीमती माया सिंह (मध्य प्रदेश) : धन्यवाद, उपसभाध्यक्ष जी, आपने मुझे इस दंड प्रक्रिया संहिता संशोधन विधेयक, 2006 पर बोलने का मौका दिया।

उपसभाध्यक्ष जी, महिलाओं के साथ पुलिस के द्वारा अक्सर जो सलूक किया जाता है, कभी-कभी तो वह इतने निम्न स्तर का होता है कि जिसे शब्दों में कहना मुश्किल है और कुछ घटनाएं तो शालीनता की सीमा भी पार कर जाती हैं। महोदय, मैं इसे बर्बरतापूर्ण कहूं तो अतिशयोक्ति नहीं होगा, लेकिन इस विधेयक में प्रावधान है कि महिलाओं को महिला पुलिस अधिकारी के अतिरिक्त अन्य कोई पुलिस अधिकारी गिरफ्तार करने के लिए उसके शरीर को छू नहीं सकता। यह प्रावधान महिला की गरिमा के अनुकूल है। इसी तरह खंड 8 में गिरफ्तार की जाने वाली महिला के शरीर की परीक्षा महिला चिकित्सा अधिकारी द्वारा करवाए जाने का जो प्रावधान किया गया है, मैं उसका भी स्वागत करती हूं। और खंड 11 में बलात संघ अपराध के संबंध में पीड़ित महिला के बयान या कथन को पीड़ित महिला के निवास या उसकी पसंद के स्थान पर या उसके माता-पिता या संरक्षक या नजदीकी रिश्तेदारों की उपस्थिति या उस क्षेत्र की सामाजिक कार्यकर्ता की उपस्थिति में किसी महिला पुलिस अधिकारी द्वारा रिकॉर्ड किए जाने का जो प्रावधान इस में प्रस्तावित है, वह भी महिला की गरिमा को बढ़ाएगा। मैं मंत्री जी को इस के लिए धन्यवाद देती हूं और इस प्रावधान का स्वागत करती हूं क्योंकि यह कदम महिलाओं की गरिमा को प्रतिस्थापित करने का एक प्रयास है, लेकिन मैं यह भी कहना चाहूंगी कि यह प्रयास ही नहीं रहें बल्कि इनका कड़ाई से पालन हो और इन पर नजर रखी जानी चाहिए।

[**उपसभापति महोदय** पीठासीन हुए]

महोदय, मुझे लगता है कि यह संशोधन विधेयक पूरी सोच और समझ के साथ नहीं लाया गया है क्योंकि इस में 1973 में दंड प्रक्रिया संहिता में जो व्यापक परिवर्तन किए गए और एक समग्र संशोधित प्रक्रिया का विधियन किया गया, इसके बाद बदली हुई परिस्थितियों में समय-समय पर यह अनुभव किया गया कि 1973 का संशोधन विधेयक आज की आवश्यकताओं को पूरा नहीं करता है। महोदय, 5 वर्षों में इस में संशोधन के लिए 3 संशोधन विधेयक पेश किए जा चुके हैं - पहला संशोधन विधेयक 2003 में आया जिस पर संसदीय समिति की एक टिप्पणी है, मैं आप की अनुमति से संसदीय समिति की उस टिप्पणी को शब्दशः कोट करना चाहती हूँः—

"The Committee is very keen of revamping Criminal Justice System and feel that the Government should attempt to bring a comprehensive Bill, particularly, in the light of Reports of various Commissions, Committees and Studies on the Criminal Justice System. The Committee is of the view that if that takes a long time, then, at least, the Code of Criminal Procedure (Amendment) Bill, 1994, and the present Bill may be merged and a composite Bill be introduced in Parliament, rather than introducing piecemeal legislation separately. Deliberations took place in the Committee on the urgent need for introducing policy reforms in the light of widespread allegations of corruption, inaction and politicisation of police force. The Committee urges the Government for immediate initiation of measures for reforming the police system in the country." समिति की यह सिफारिश वर्ष 2005 की है और मुझे लगता है कि सरकार पर इन सिफारिशों का कोई असर ही नहीं पड़ा। इसके बाद वर्ष 2006 में फिर एक संशोधन का विधेयक आया, जिसमें कि मात्र एक संशोधन प्रस्तावित किया गया, उसके बाद फिर इसमें एक दूसरा संशोधन वर्ष 2006 में ही लाया गया। इस तरह दो वर्ष तक यह संशोधन हाइबरनेशन में पड़ा रहा और अब वर्ष 2008 के अंत में यह हमारे सामने है। इसमें मंत्री महोदय ने इतने व्यापक संशोधन प्रस्तावित किए हैं, जिससे मुझे लगता है कि सरकार खुद भी इस संशोधन विधेयक के विषय में स्पष्ट नहीं है और पता नहीं, किन कारणों से हड़बड़ी में वह इस विधेयक को पारित करना चाहती है?

महोदय, पुलिस रिफॉर्म और दंड प्रक्रिया संहिता में और सुधार लाने के लिए सरकार ने एक माधव मेनन समिति का गठन किया था। इस समिति की रिपोर्ट भी आए एक साल से अधिक हो चुका है। इसी सदन में हमारे एक सम्माननीय सदस्य के एक प्रश्न के उत्तर में स्वयं सरकार ने कहा था कि माधव मेनन समिति की सिफारिशों पर राज्य-सरकारों के अभिमत जानने के लिए इन सिफारिशों के क्रम में एक प्रारूप तैयार कर भेजा गया है। इसी प्रश्न के उत्तर में आगे बताया गया कि पांच राज्यों की सरकारों ने तो अपना अभिमत दे दिया है, बाकी शेष राज्यों से अभी अभिमत प्राप्त होना है। मैं जानना चाहती हूँ कि सरकार इस संबंध में क्या कर रही है? कब तक बाकी राज्यों से अभिमत आ जाएंगे? इस विषय में सदन को जानने का पूरा अधिकार है। क्या माधव मेनन समिति की सिफारिशों के आधार पर सरकार इस दंड प्रक्रिया संहिता में और कोई नया संशोधन लाने वाली है? मैं मंत्री महोदय से ये सारी बातें जानना चाहती हूँ।

उपसभापति महोदय, बार-बार संशोधन लाने से जहां सरकार की इस विषय में एक निश्चित सोच का अभाव मुझे दिखता है, वहीं प्रक्रिया में बार-बार परिवर्तन से पुलिस और अदालतों में भी कन्फ्यूजन की स्थिति उत्पन्न होती है। जो भी हो, इस तरीके के यह हालात ठीक नहीं हैं। वैसे मेरी पार्टी के जो वक्ता हैं, उन्होंने विस्तार से इस बिल के बारे में अपनी बात रख दी है, मैं सिर्फ इतना कहना चाहती हूँ कि इसमें कुछ प्रावधान, कुछ संशोधन ऐसे हैं, जिनका मैं समर्थन करती हूँ, स्वागत करती हूँ, मंत्री जी के प्रति धन्यवाद ज्ञापित करती

हूँ, जहां तक महिला पक्ष का सवाल है, लेकिन कुछ में ऐसी स्थिति है, जिन पर मैं मंत्री जी से कहना चाहूंगी कि इन पर कड़ी नजर रखी जाए और उनका पालन ठीक, अच्छे तरीके से हो, इस पर ध्यान देने की जरूरत है।

आपने मुझे बोलने के लिए जो अवसर दिया, उसके लिए मैं आपका धन्यवाद ज्ञापित करती हूँ। धन्यवाद।

SHRIMATI BRINDA KARAT (West Bengal): Sir, since my colleague has already spoken on the major aspects of the Bill, I am not going to repeat them. I am just going to confine myself to certain issues concerning women.

I welcome the special provisions made for the protection of women in the various sections of the Bill. But I would like to urge upon the hon. Home Minister that since he has just taken over this office, he would not be aware that women's organizations have worked very hard for a comprehensive Bill on sexual assault. The present Criminal Procedure Code, and even the amendments that are being moved today, deal with this issue in a piecemeal manner. After studying the international law, we want a comprehensive law on sexual assault, dealing with different degrees of sexual assault. I think, if that could be considered, then, these various provisions, which are being brought in the Bill, could be put together. It would have a salutary effect to deal with the increasing crime against women. So, that is my first request which I would like to make to the hon. Minister.

Then, my major problem with these amendments is on the issue of making some of the crimes against women as compoundable crimes. There is a view in the society, which we have been fighting against, and it used to be a prevalent view, that what happens within the domestic sphere is a private matter to be dealt with between the husband and the wife or those who have perpetuated violence against violence. And, this was the prevailing patriarchal notion for which reason much of the violence against women, within the home, was really never taken up as a social crime. And, women suffered as a result of it. I think, our enlightened lawmakers in the Indian Parliament, recognising the social implications of such crimes against women...*(Interruptions)*.. Sir, it is very disturbing for a speaker when all are coming and going. It is very disturbing. I cannot speak in such a situation.

Sir, it was the progressive outlook of our lawmakers which accepted this struggle of women's movements and brought many of these crimes, which were hitherto hidden, into the public domain. They, in fact, recognised all aspects of crimes against women as social crimes in which the State and society have a role to ensure that they are not committed.

Now, there is this whole issue of making these crimes compoundable. Everyone knows that for compounding of an offence, there are two tables in the Criminal Procedure Code. The first table lists certain crimes in which even after a complaint is made or an FIR is filed, if the two parties come to an agreement of withdrawing a case, then, that case gets withdrawn. And in dealing with this, the One Hundred and Fifty Fourth Commission said, "The rationale for compounding of offences is that the chastened attitude of the accused and the praiseworthy

attitude of the complainant in order to restore peace and harmony in society must be given effect to in the composition of offences." Now, unfortunately, according to the experience of women, this kind of an understanding is completely divorced from the reality that women face because it is precisely violence which is destroying peace and harmony in our society. And, in a situation where relationship between the person perpetrating violence and the victim of that violence is unequal, then, very often, the compounding of an offence in an unequal relationship forces, and is an instrument of coercion, to compound the offence. We have tried it. And, this is one of the very important struggles of our movement. Please don't dilute the crime by making it a personal crime and making it compoundable. Therefore, I was very distressed to see that in a report in which so many important provisions have been made for the protection of women, this aspect has also been added. Therefore, I have moved amendments on some of these aspects. The first one is this. It is a very, very important one. It deals with section 324: voluntarily causing hurt by dangerous weapons or means. It says, "Whoever, except in the case provided by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting or any instrument which, used as weapon of offence, is likely to cause death or by means of fire or any heated substance.." Now, we have had such cases. Everybody knows this whole phenomenon of death by burning. If you are going to bring section 324, which is often used in such cases, into a compoundable offence — you are introducing it in the first table — I think, it is going to be extremely unjustifiable. Therefore, I urge upon the hon. Home Minister, please don't do this and please remove this from the compoundable crimes. And, the other amendment which I moved is this.

Then, there is Section 312. Section 312 deals with the crime which concerns miscarriage and causing miscarriage of a woman. That is now being brought into a compoundable crime. I think this is absolutely unacceptable. We have the Termination of Pregnancy Act, which is an Act on its own. It gives a right to abortion for a woman. We support the right to abortion. But, at the same time, 'causing miscarriage' and to make 'causing miscarriage' compoundable, I think, is not something which can be accepted.

Then, we have Section 406. As everyone knows, 406 is more often than not used as a criminal breach of trust which is used in retrieving dowry in cases where the dowry is not being returned to a woman who has been abandoned or deserted, and, in many of those cases also, Section 406 is used. The present 406 is in Table 2. I would request that the *status quo* is maintained and this should not be shifted to Table 1 where only the two parties can do it.

Similarly, Sir, the other very important amendments, which I have moved, refer to the issue of sexual harassment. Now, 354 is a very serious crime and if you look at the rate of crime of the increase in this, you will find that in 2005, there were 34,000 cases registered; in 2006, there were 36,000 cases registered; and, in 2007, there were almost 39,000 cases registered, just below 39,000 cases. So, this is a very serious crime. It is already there in Table 2 but I would

really request the Home Minister to delete it from the compoundable offences so that the seriousness of the crime can be recognised by the society and action taken.

MR. DEPUTY CHAIRMAN: How much more time do you need?

SHRIMATI BRINDA KARAT: Sir, I have finished. I have just got one more amendment.

MR. DEPUTY CHAIRMAN: Why I am asking this is because we have to take the other Bill at 2 o'clock.

SHRIMATI BRINDA KARAT: Sir, I have finished. Then, as far as compensation is concerned, we have moved a draft which is before the Home Ministry which concerns acid attacks on women and other attacks like that; and we have asked for a separate Commission to be set up for compensation both at the Centre and in the States. In this amendment, what they are suggesting is that the District Legal Service Authority or the State Legal Service Authority should be the Committee which can decide on the compensation. If it is possible — I mean, I don't accept the Home Minister to immediately respond now — and if he could consider that we require a separate Committee to deal with this issue of compensation, it would be really helpful. Sir, why I am saying so is because along with acid attacks, many courts are suggesting that a State not give compensation but different types of victims of violence among women should also be given some kind of rehabilitation. So, I think, it would be very helpful to women if a separate Committee could be set up. That would be something which would be very helpful to women.

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THE CENTRAL INDUSTRIAL SECURITY FORCE (AMENDMENT) BILL, 2008

THE MINISTER OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Sir, I beg to move for leave to introduce a Bill further to amend the Central Industrial Security Force Act, 1968.

The question was put and the motion was adopted.

SHRI P. CHIDAMBARAM: Sir, I introduce the Bill. (Ends)

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THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) AMENDMENT BILL, 2008

रेल मंत्री (श्री लालू प्रसाद): महोदय, मैं प्रस्ताव करता हूँ कि:

"रेल संपत्ति (विधि विरुद्ध कब्जा) अधिनियम, 1966 का और संशोधन करने के लिए एक विधेयक को पुर:स्थापित करने की अनुमति दी जाए ..."

The question was put and the motion was adopted.

श्री लालू प्रसाद: महोदय, मैं विधेयक को पुर:स्थापित करता हूं।